

AMENDED IN ASSEMBLY APRIL 25, 2013

AMENDED IN ASSEMBLY APRIL 15, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 964

Introduced by Assembly Member Bonta

February 22, 2013

An act to amend Section 11713.18 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 964, as amended, Bonta. Vehicles: dealers.

Existing law makes it unlawful and provides that it constitutes an infraction for any person to violate, or fail to comply with, any provision of the Vehicle Code, or any local ordinance adopted pursuant to this code. Existing law also makes it a violation of the Vehicle Code for the holder of any specified dealer's license to advertise for sale or sell a used vehicle as "certified" or use any similar descriptive term in the advertisement or the sale of a used vehicle that implies that the vehicle has been certified to meet the terms of a used vehicle certification program if any of several specified conditions apply. Under existing law, those specified conditions include, but are not limited to, when the vehicle has sustained damage in an impact, fire, or flood, that after repair prior to sale substantially impairs the use or safety of the vehicle, when the dealer knows or should have known that the vehicle has sustained frame damage, or when the dealer, prior to sale, fails to provide a completed inspection report, as specified.

This bill would prohibit the holder of any dealer's license from selling a *used* vehicle as part of a used vehicle certification program if the

dealer knows or should have known that the vehicle is the subject of an open or unaddressed *a manufacturer's safety* recall. ~~The bill would also prohibit the holder of any dealer's license from selling any used car, including a car that is not part of a used vehicle certification program, without providing the buyer a completed inspection report, as specified, prior to sale.~~ The bill would *also* prohibit the holder of any dealer's license from selling ~~a any used-car vehicle~~ without providing a written disclosure, *in certain languages*, indicating which, if any, of several specified conditions are present.

By creating new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11713.18 of the Vehicle Code is amended
2 to read:

3 11713.18. (a) It is a violation of this code for the holder of
4 any dealer's license issued under this article to advertise for sale
5 or sell a used vehicle as "certified" or use any similar descriptive
6 term in the advertisement or the sale of a used vehicle that implies
7 the vehicle has been certified to meet the terms of a used vehicle
8 certification program if any of the following apply:

9 (1) The dealer knows or should have known that the odometer
10 on the vehicle does not indicate actual mileage, has been rolled
11 back or otherwise altered to show fewer miles, or replaced with
12 an odometer showing fewer miles than actually driven.

13 (2) The dealer knows or should have known that the vehicle
14 was reacquired by the vehicle's manufacturer or a dealer pursuant
15 to state or federal warranty laws.

16 (3) The title to the vehicle has been inscribed with the notation
17 "Lemon Law Buyback," "manufacturer repurchase," "salvage,"
18 "junk," "nonrepairable," "flood," or similar title designation
19 required by this state or another state.

1 (4) The vehicle has sustained damage in an impact, fire, or flood,
2 that after repair and prior to sale substantially impairs the use or
3 safety of the vehicle.

4 (5) The dealer knows or should have known that the vehicle has
5 sustained frame damage.

6 (6) *Prior to sale, the dealer fails to provide the buyer with a*
7 *completed inspection report indicating all the components*
8 *inspected.*

9 ~~(6)~~
10 (7) The dealer disclaims any warranties of merchantability on
11 the vehicle.

12 ~~(7)~~

13 (8) The vehicle is sold “AS IS.”

14 ~~(8)~~

15 (9) The term “certified” or any similar descriptive term is used
16 in any manner that is untrue or misleading or that would cause any
17 advertisement to be in violation of subdivision (a) of Section 11713
18 of this code or Section 17200 or 17500 of the Business and
19 Professions Code.

20 ~~(9)~~

21 (10) The dealer knows or should have known that the vehicle
22 is subject to an open or unaddressed a manufacturer’s safety recall.

23 (b) It is a violation of this code for the holder of any dealer’s
24 license issued under this article to sell a used vehicle without
25 providing the buyer written disclosure, *in the languages specified*
26 *in subdivision (b) of Section 1632 of the Civil Code*, identifying
27 which, if any, of the following conditions are present, if the dealer
28 knows or should know of its presence:

29 (1) The odometer on the vehicle does not indicate actual
30 mileage, has been rolled back or otherwise altered to show fewer
31 miles, or replaced with an odometer showing fewer miles than
32 actually driven.

33 (2) The vehicle was reacquired by the vehicle’s manufacturer
34 or a dealer pursuant to state or federal warranty laws.

35 (3) The title to the vehicle has been inscribed with the notation
36 “Lemon Law Buyback,” “manufacturer repurchase,” “salvage,”
37 “junk,” “nonrepairable,” “flood,” or similar title designation
38 required by this state or another state.

(4) The vehicle has sustained damage in an impact, fire, or flood, that after repair and prior to sale substantially impairs the use or safety of the vehicle.

(5) The vehicle has sustained frame damage.

(6) The dealer disclaims any warranties of merchantability on the vehicle.

(7) The vehicle is sold “AS IS.”

(8) The vehicle is subject to ~~an open or unaddressed~~ a manufacturer’s safety recall.

(c) It is a violation of this code for the holder of any dealer’s license issued under this article to sell a used vehicle without providing the buyer a completed inspection report indicating all the components inspected prior to sale.

~~(d) A~~

(c) (1) A violation of this section is actionable under the Consumers Legal Remedies Act (Title 1.5 (commencing with Section 1750) of Part 4 of Division 3 of the Civil Code), the Unfair Competition Law (Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code), Section 17500 of the Business and Professions Code, or any other applicable state or federal law. The rights and remedies provided by this section are cumulative and shall not be construed as restricting any right or remedy that is otherwise available.

(2) *The rights, remedies, and procedures provided for in this section are in addition to, and independent of, any other rights, remedies, or procedures available under any other law. Nothing in this section shall be construed to alter, limit, or negate any other rights, remedies, or procedures provided for by law.*

~~(e)~~

(d) This section does not abrogate or limit any disclosure obligation imposed by any other law.

~~(f)~~

(e) This section does not apply to the advertisement or sale of a used motorcycle or a used off-highway motor vehicle subject to identification under Section 38010.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty

1 for a crime or infraction, within the meaning of Section 17556 of
2 the Government Code, or changes the definition of a crime within
3 the meaning of Section 6 of Article XIII B of the California
4 Constitution.

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